

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JEFFREY DUANE MOSES,

Petitioner(s),

V.

ALICE PAYNE,

Respondent(s).

NO. C06-1105MJP

**ORDER ON MOTION FOR
CERTIFICATE OF
APPEALABILITY**

The above-entitled Court, having received and reviewed Petitioner's Notice of Appeal (Dkt. No. 29), which also operates as a motion for certificate of appealability.

28 U.S.C. § 2253(c)(2) provides that a certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” To satisfy this standard, petitioner must show “that reasonable jurists could debate whether . . . the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” Slack v. McDaniel, 120 S.Ct. 1595, 1603-04 (2000) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).

Having reviewed the Order Adopting Report and Recommendation (Dkt. No. 27), the Court finds that Petitioner has made the requisite showing of the denial of a constitutional right. Further, the Court is satisfied that reasonable jurists could differ regarding the resolution of the issues presented and that those issues should in fact proceed to appellate consideration.

IT IS HEREBY ORDERED that the motion for certificate of appealability is GRANTED.

1 The clerk is directed to provide copies of this order to all counsel of record.

2 Dated: June 8, 2007



3
4 Marsha J. Pechman
5
6 U.S. District Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25